

ORDINANCE NO. 28179

AN ORDINANCE OF THE CITY OF SAN JOSE AMENDING CHAPTER 15.14 OF THE SAN JOSE MUNICIPAL CODE TO MODIFY LOCAL DISCHARGE LIMITS FOR COPPER, NICKEL, SELENIUM AND TOTAL PHENOL, TO ELIMINATE LIMITS FOR MANGANESE, TOTAL TOXIC ORGANICS AND XYLENE; TO ADD DEFINITIONS, TO CONFORM MUNICIPAL CODE REQUIREMENTS TO FEDERAL PRETREATMENT PROGRAM REQUIREMENTS, TO EXPAND REPORTING, RECORD KEEPING AND SAMPLING REQUIREMENTS AND TO REQUIRE INDUSTRIAL PRETREATMENT APPLICATIONS TO BE FILED AT LEAST NINETY DAYS PRIOR TO DISCHARGE OR THE EXPIRATION OF AN EXISTING PERMIT

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF SAN JOSE:

SECTION 1. Part 2 of Chapter 15.14 of Title 15 of the San José Municipal Code is amended to be numbered, entitled, and to read as follows:

Part 2

Definitions

15.14.200 Definitions

The definitions set forth in this Part 2 shall govern the application and interpretation of this Chapter.

15.14.205 Accidental Discharge

“Accidental discharge” means any discharge at a flow rate or concentration which could cause a violation of the discharge standards in this Chapter or any discharge of a non-routine, episodic nature, including but not limited to, an accidental spill or slug.

15.14.210 Ammonia

“Ammonia” means that form of nitrogen which is chemically definable as NH₃.

15.14.215 Audit Protocols

“Audit protocols” means the procedures to be followed in performing flow and pollutant audit studies.

15.14.220 Average Concentration

“Average concentration” means the concentration of a pollutant in an Industrial User's discharge that is calculated by adding the concentrations of the particular pollutant in all composite samples taken during a given time period, including but not limited to, self monitoring samples, and dividing the total by the number of samples taken.

15.14.225 Batch Discharge

“Batch Discharge” means the discharge of wastewater resulting from an intermittent treatment process in which an identified amount of process wastewater is collected, treated to meet discharge standards, and released to the sanitary sewer system.

15.14.230 Best Management Practices

“Best management practices” means schedules of activities, prohibitions of practices, maintenance procedures and other management practices to prevent or reduce the introduction of pollutants to the sanitary sewer system which have been determined by the Director to be cost effective for particular industry groups, business types, or specific industrial processes.

15.14.235 Biochemical Oxygen Demand

“Biochemical oxygen demand” means the quantity of oxygen expressed in parts per million (ppm) by weight, utilized in the biochemical oxidation of organic matter under standard laboratory conditions for five (5) days at a temperature of twenty degrees centigrade (20° C).

15.14.240 Categorical Industrial User or CIU

“Categorical Industrial User” or “CIU” means a source performing any categorical process subject to Federal pretreatment standards, as described in 40 CFR 405 - 471 that has any connection to the sanitary sewer system.

15.14.245 Categorical Pretreatment Standard or Categorical Standard

“Categorical Pretreatment Standard” or “Categorical Standard” means any regulation containing pollutant discharge limits promulgated by EPA that apply to specific categories of users and which appear in 40 CFR 405-471.

15.14.250 Code of Federal Regulations

“Code of Federal Regulations” or “CFR” refers to the Code of Federal Regulations as published by the Office of the Federal Register National Archives and Records Administration. Whenever a reference is made to any portion of said Code, or to any other federal regulation, such reference shall apply to all amendments and additions to such portion of said Code now or hereafter enacted.

15.14.255 Composite Sample

“Composite sample” means a sample that accurately represents the average pollutant concentration during a continuous time period.

- A. A flow-proportional or time-proportional sample may be obtained manually or automatically, and discretely or continuously. For manual compositing, at least six (6) individual samples from each sample point shall be combined and mixed to obtain one Composite sample; flow-proportion may be obtained either by varying the time interval between each discrete sample or the volume of each discrete sample.
- B. If multiple batches are discharged over a 24-hour period, then one sample must be collected from each batch discharged in that 24-hour period and composited into a single sample. A single sample from a batch representing one or more production days will be considered a single composite sample.

15.14.260 Continuous Discharge

“Continuous Discharge” means a discharge which occurs without interruption throughout the operating hours of the facility, except for infrequent shutdowns for maintenance, process changes, or other similar activities.

15.14.265 Critical User

“Critical User” means a discharger whose wastewater contains priority pollutants, or who discharges any waste which has the potential to cause interference in concentrations above those allowed in this Chapter or who discharges in excess of 100,000 gpd.

15.14.270 Diluting Waters

“Diluting waters” means non-contact cooling water, boiler blowdown, domestic sewage, groundwater, storm water, surface drainage, reverse osmosis reject or potable waters which are not part of an industrial process and which do not contain priority pollutants but are combined with industrial wastewater prior to the monitoring point for industrial

wastewater discharge. Diluting waters also includes excess water used in rinse tanks when not in production.

15.14.275 Director

“Director” means the Director of Environmental Services.

15.14.280 Discharger

“Discharger” means any person discharging wastewater into the Sanitary Sewer System.

15.14.285 Domestic Wastewater

“Domestic wastewater” means Wastewater from private residences and wastewater from other premises resulting from the use of water for personal washing, sanitary purposes or the elimination of human wastes and related matter.

15.14.290 Existing Source

“Existing source” means any source of discharge that is not a New Source.

15.14.295 Garbage

“Garbage” means wastes from the preparation, cooking and dispensing of foods and from the handling, storage and sale of produce.

15.14.300 Grab Sample

“Grab sample” means a single discrete sample collected at a particular time and place that represents the composition of the wastestream only at that time and place.

15.14.305 Grease

“Grease” means n-hexane-soluble matter, and shall include each of the following two types:

- A. Dispersed grease, which means grease that is not floatable grease.
- B. Floatable grease, which means grease that floats on the surface of quiescent sewage water or other liquid or which floats when mixed or added to water.

15.14.310 Industrial User

“Industrial User” means any nonresidential user that discharges industrial wastes to the sanitary sewer system.

15.14.315 Industrial Wastes

“Industrial wastes” means the wastes from producing, manufacturing and processing operations of every kind and nature.

15.14.320 Interference

- A. “Interference” means a discharge which alone, or in conjunction with a discharge or discharges from other sources, inhibits or disrupts the processes or operation of the sanitary sewer system, including the plant, or causes or significantly contributes to a violation of any requirement of the National Pollutant Discharge Elimination System (NPDES) permit, which is a permit issued to the City pursuant to Section 402 of the Clean Water Act.
- B. “Interference” also includes prevention of biosolids use or disposal by the plant in accordance with published regulations providing guidelines under Section 405 of the Clean Water Act or in regulations developed pursuant to the Solid Waste Disposal Act (SWDA), the Clean Water Act, the Toxic Substances Control Act, or more stringent state regulations (including those contained in any state biosolids management plan prepared pursuant to Title IV of SWDA) applicable to the method of disposal or use employed by the plant.

15.14.325 Low Flow Discharger

“Low Flow Discharger” means an industrial discharger whose average process flow, as shown on the Dischargers’ Application to Discharge and as measured as a rolling six month average, is less than one thousand (1,000) gallons per day.

15.14.330 Maximum Allowable Concentration

“Maximum allowable concentration” means the highest permissible concentration or other measure of pollutant magnitude taken at a specific point in time or period of time.

15.14.335 New Source

“New source” means:

- A. Any building, structure, facility or installation from which there is (or may be) a discharge of pollutants, the construction of which commenced after the publication of proposed Pretreatment Standards under section 307(c) of the

Clean Water Act that will be applicable to such source if such Standards are thereafter promulgated in accordance with that section, provided that:

1. The building, structure, facility, or installation is constructed at a site at which no other source is located; or
 2. The building, structure, facility or installation totally replaces the process or production equipment that causes the discharge of pollutants at an Existing Source; or
 3. The production or wastewater generating processes of the building, structure, facility or installation are substantially independent of an Existing Source at the same site. In determining whether these are substantially independent, factors such as the extent to which the new facility is integrated with the existing plant, and the extent to which the new facility is engaged in the same general type of activity as the Existing Source, should be considered.
- B. Construction on a site at which an Existing Source is located results in a modification rather than a New Source if the construction does not create a new building, structure, facility, or installation meeting the criteria of Section A (2) or (3) above but otherwise alters, replaces, or adds to existing process or production equipment.
- C. Construction of a New Source as defined under this paragraph has commenced if the Owner or Operator has:
1. Begun, or caused to begin, as part of a continuous onsite construction program
 - a. Any placement, assembly or installation of facilities or equipment; or
 - b. Significant site preparation work, including clearing, excavating, or removal of existing buildings, structures, or facilities which is necessary for the placement, assembly, or installation of new source facilities or equipment; or
 2. Entered into a building contractual obligation for the purchase of facilities or equipment which are intended to be used in its operation within a reasonable time. Options to purchase or contracts which can be terminated or modified without substantial loss, and contracts for feasibility, engineering, and design studies do not constitute a contractual obligation under this paragraph.

15.14.340 Owner

“Owner” means any person who owns private premises that contain a Source as defined in this Section.

15.14.345 Operator

“Operator” means any person who owns, leases, operates, controls, or supervises a Source as defined in this Section.

15.14.350 Pass-Through

“Pass-Through” means a discharge which exits the Plant into waters of the U.S. in quantities or concentrations which alone, or in conjunction with a discharge or discharges from other sources, is a cause of a violation of any requirement of the Plant’s NPDES permit, including an increase in the magnitude or duration of a violation.

15.14.355 pH

“pH” means the logarithm of the reciprocal of the concentration of hydrogen ions in moles per liter of solution.

15.14.360 Plant

“Plant” means the San José/Santa Clara Water Pollution Control Plant.

15.14.365 Pretreatment Standard

“Pretreatment Standard” means prohibited discharge standards, Categorical Pretreatment Standards, and local limits.

15.14.370 Pretreatment Requirements

“Pretreatment Requirements” means any substantive or procedural requirement related to pretreatment imposed on an Industrial User other than a Pretreatment Standard.

15.14.375 Priority Pollutants

“Priority pollutants” means all pollutants as defined by the “General Pretreatment Regulations” of the Environmental Protection Agency, found at 40 CFR 401 and 403.

15.14.380 Process Flow

“Process flow” means the daily, twenty-four (24) hour, flow of wastewater from any kind or nature of production, manufacturing or processing operation, including industrial and

commercial operations where water is used for the removal of any type of waste other than sanitary sewage. Process flow does not include diluting waters.

15.14.385 Reasonable Control Measures

“Reasonable control measures” means control technologies, best management practices, source control practices, and waste minimization procedures which prevent or reduce the introduction of pollutants to the sanitary sewer system and are determined by the Director to be cost effective for particular industry groups, business types, or specific industrial processes.

15.14.390 Sanitary Sewage

“Sanitary sewage” means water-carried wastes from residences, business buildings, institutions, and industrial establishments, excluding ground, surface and storm waters, subsurface drainage and also excluding industrial waste.

15.14.395 Sanitary Sewer System

“Sanitary sewer system” means all sewers, treatment plants, and other facilities owned or operated by the City for carrying, collecting, pumping, treating, and disposing of sanitary sewage and industrial wastes.

15.14.400 Sewer

“Sewer” means a pipe or conduit for carrying sewage.

15.14.405 Significant Change

“Significant change” means any change in an Industrial User's operation that results in any of the following:

- A. A flow that exceeds the expected peak flow as shown in the sewage treatment plant connection allocation for the property on which the Industrial User is located.
- B. An increase in average process flow of twenty-five percent (25%) over the Industrial User's average process flow for the dischargers' most immediate preceding compliance period.
- C. Adding or deleting process discharge or sample points.

15.14.410 Significant Industrial User

“Significant Industrial User” means:

- A. An Industrial User that has processes subject to categorical Pretreatment Standards; or
- B. An Industrial User that:
 - 1. Discharges an average of twenty-five (25,000) gpd or more of process wastewater to the sanitary system (excluding sanitary, noncontact cooling and boiler blowdown wastewater); or
 - 2. Contributes a process wastestream which makes up five (5 percent or more of the average dry weather hydraulic or organic capacity of the Plant); or
 - 3. Is designated as such by the Director on the basis that it has a reasonable potential for adversely affecting the Plant's operation or for violating any Pretreatment Standard or Requirement.

15.14.415 Significant Noncompliance

An Industrial User is in "significant noncompliance" if it has a violation or violations meeting one or more of the following criteria:

- A. Chronic violations of wastewater discharge limits defined here as those in which sixty-six percent or more of all the measurements taken during a six-month period exceed (by any magnitude) a numeric Pretreatment Standard or Requirement, including instantaneous limits, as defined by 40 CFR 403.3 (I);
- B. Technical Review Criteria (TRC) violations, defined here as those in which thirty-three percent or more of all the measurements for each pollutant parameter taken during a six month period equal or exceed the product of the numeric Pretreatment Standard or Requirement including instantaneous limits, as defined by 40 CFR 403.3 (I) multiplied by the applicable TRC (TRC = 1.4 for BOD, TSS, fats, oil and grease, and 1.2 for all other pollutants except pH;
- C. Any other violation of a Pretreatment Standard or Requirement as defined by 40 CFR 403.3 (I) (daily maximum, long-term average, instantaneous limit, or narrative Standard) that the Director determines has caused, alone or in combination with other discharges, interference or pass through (including endangering the health of the Director personnel or the general public);
- D. Any discharge of a pollutant that has caused imminent endangerment to human health, welfare or to the environment or has resulted in the Plant's exercise of its emergency authority to halt or prevent such a discharge;

- E. Failure to meet, within 90 days after the scheduled due date, a compliance schedule milestone contained in a discharge permit or enforcement order for starting construction, completing construction, or attaining final compliance;
- F. Failure to provide, within 45 days after the due date, required reports such as baseline monitoring reports, 90-day compliance reports, periodic self-monitoring reports, and reports on compliance with compliance schedules;
- G. Failure to accurately report noncompliance; and
- H. Any other violation or group of violations, which may include a violation of Reasonable Control Measures, which the Director determines will adversely affect the operation or implementation of the pretreatment program.

15.14.420 Slug Load or Slug Discharge

“Slug load” or “Slug discharge” means any discharge of a non-routine, episodic nature, including but not limited to, an accidental spill or noncustomary batch Discharge, which has a reasonable potential to cause Interference or pass-through or in any other way cause a violation of the provisions of this Chapter or applicable permit conditions.

15.14.425 Source

“Source” means any building, structure, facility or installation from which there is or may be a potential as determined by the Director to discharge pollutants above the local limits included in this Chapter or state or federal limits or wastewater of such volume or strength that is may cause Interference, Pass Through or operational problems in the sanitary sewer system or at the San José/Santa Clara Water Pollution Control Plant.

15.14.430 Standard Discharger

A “Standard discharger” means any Industrial Discharger who is not a Low Flow Discharger.

15.14.435 Standard Methods

- A. “Standard methods” means the procedures set forth in the Code of Federal Regulations, unless another method for the analysis of industrial wastewater has been approved, in writing, in advance of use of the procedure by the Director.
- B. All analyses shall be performed by a laboratory certified by the state for the specific pollutants and matrix to be analyzed, unless otherwise approved, in writing, by the Director prior to performance of a sample analysis.

15.14.440 Storm Waters

“Storm waters” means the flow across any surface or in storm sewers resulting from rainfall.

15.14.445 Suspended Solids

“Suspended solids” means solids that either float on the surface of, or are in suspension in water, sewage, or other liquids and which are removable by laboratory filtering.

15.14.450 Total Toxic Organics

“Total toxic organics” (TTOs) are the sum of the concentrations for each of the regulated toxic organic compounds listed at 40 CFR 401.15 and which are found in the discharge at a concentration greater than ten (10) micrograms per liter. Some categorical standards (40 CFR 405-471) list the specific toxic organic compounds that are to be included in the summation.

15.14.455 Trucked Or Hauled Waste

“Trucked or hauled waste” means any waste discharged into the sanitary sewer system after being placed in a motorized vehicle for removal from the location where the waste was generated or produced.

15.14.460 Zero Discharger

“Zero Discharger” means an industrial facility that does not discharge any wastewater except domestic wastewater to the sanitary sewer system.

SECTION 2. Section 15.14.520 of Chapter 15.14 of Title 15 of the San José Municipal Code is amended to be numbered, entitled, and to read as follows:

15.14.520 Regulation Of Trucked Or Hauled Waste

No person shall discharge, cause, allow or permit any trucked or hauled waste to be discharged into the sanitary sewer system, except at a site specifically designated in a wastewater discharge permit issued pursuant to this Chapter or a receiving station permit issued pursuant to Chapter 9.08 of this Code.

SECTION 3. Section 15.14.530 of Chapter 15.14 of Title 15 of the San José Municipal Code is amended to read as follows:

15.14.530 Protection From Accidental Discharge

- A. Each Industrial User shall provide protection from accidental discharge of prohibited materials or other wastes regulated by this Chapter into either the storm sewer or sanitary sewer systems.
- B. Facilities to prevent accidental discharge of prohibited materials shall be provided and maintained at the Industrial User's expense.
- C. All Industrial Users shall notify the Environmental Services Department by telephone or in person within one (1) hour of becoming aware of accidentally discharging wastes of reportable quantities as determined in 40 CFR 117 or discharge of any substance, which, if otherwise disposed of, would be a hazardous waste under 40 CFR Part 261, to enable countermeasures to be taken by the city to minimize damage to the sanitary sewer system, plant, treatment processes, and the receiving waters. If hazardous waste is discharged, Industrial User shall be subject to all requirements in 40 CFR 403.12(p).
- D. Telephone notification shall be followed, within five (5) days of the date of occurrence, by a detailed written statement describing the causes of the accidental discharge and the measures being taken to prevent future occurrences.
- E. Notification to the City will not relieve Industrial Users of notification requirements under any other federal, state or local law, nor of liability for any expense, loss or damage to the sanitary sewer system, Plant or treatment process or receiving waters or for any fines or penalties imposed on the City on account thereof under applicable provisions of state or federal law.
- F. All permitted facilities must maintain a spill control plan for protection against accidental discharges, including but not limited to, berming of chemicals and waste materials. The review of such plans and procedures shall not relieve the Industrial User from the responsibility of modifying the facility as necessary to provide the protection necessary to meet the requirements of this Code or other state or federal regulations.
- G. This plan must be reviewed and revised as needed within 30 days after an accidental discharge has occurred or as required by the Director.

SECTION 4. Section 15.14.535 of Chapter 15.14 of Title 15 of the San José Municipal Code is amended to read as follows:

15.14.535 Pretreatment By Owner

Each Owner shall, at the Owner's own expense, provide such treatment or take such other measures, as the Director may require to prevent accidental discharge, reduce objectionable characteristics, contents, or rate of discharge of waters or wastes being deposited in the sanitary sewer system to prevent damage to or interference with the sanitary sewer system.

SECTION 5. Section 15.14.540 of Chapter 15.14 of Title 15 of the San José Municipal Code is amended to read as follows:

15.14.540 Monitoring Facilities

- A. The Director may require any Discharger to the sanitary sewer system to construct, at the Discharger's own expense and at an approved location, monitoring facilities to allow inspection, sampling, and flow measurement of the building sewer or internal drainage systems.
- B. The monitoring facilities, sampling, and measurement equipment and access thereto shall be maintained at all times in a safe and proper operating condition at the expense of the Discharger.
- C. Any required monitoring facilities shall be specified in the wastewater discharge permit issued pursuant to this Chapter.
- D. Dischargers shall retain sufficient wastewater in their sample box at all times to allow sample collection representative of the last wastewater discharge.

SECTION 6. Section 15.14.585 of Chapter 15.14 of Title 15 of the San José Municipal Code is amended to read as follows:

15.14.585 Interfering Substances

- A. No person shall discharge, cause, allow or permit to be discharged into the sanitary sewer system or any part thereof, any industrial waste containing any of the following toxic substances exceeding the concentrations set forth below:

Toxic Substance	Standard Discharger Maximum Allowable Concentration	Low Flow Discharger Maximum Allowable Concentration
Antimony	5.0 mg/l	5.0 mg/l
Arsenic	1.0 mg/l	1.0 mg/l
Beryllium	0.75 mg/l	0.75 mg/l
Cadmium	0.7 mg/l	0.7 mg/l
Chromium, Total	1.0 mg/l	1.0 mg/l
Copper	2.3 mg/l	2.7 mg/l
Cyanides	0.5 mg/l	0.5 mg/l
Lead	0.4 mg/l	0.4 mg/l
Mercury	0.010 mg/l	0.010 mg/l
Nickel	0.5mg/l	2.6 mg/l
Phenol & derivatives	30.0 mg/l	30.0 mg/l
Selenium	1.0 mg/l	1.0 mg/l
Silver	0.7 mg/l	0.7 mg/l
Zinc	2.6 mg/l	2.6 mg/l

- B. No person shall discharge, cause, allow, or permit to be discharged into the sanitary sewer system or any part thereof, any toxic or poisonous substances or any other pollutant, including biochemical oxygen demand, in sufficient quantity to injure or cause an interference with the sewage treatment process or pass through the Plant, or in sufficient quantity to constitute a hazard to humans or animals, or in sufficient quantity to create a hazard for humans, or aquatic life in any waters receiving effluent from the sanitary sewer system, or which may create a hazard in the use or disposal of sewage sludge.
- C. All samples, both grab and composite, shall demonstrate compliance with the above limits.
- D. Any Industrial User that violates any of the Interfering Substances limits must resample and submit sample reports for all pollutants in violation of any applicable permit limits or any other pollutants as required by the Director within thirty (30) days of becoming aware of the violation.

SECTION 7. Section 15.14.640 of Chapter 15.14 of Title 15 of the San José Municipal Code is hereby repealed.

SECTION 8. Section 15.14.645 of Chapter 15.14 of Title 15 of the San José Municipal Code is hereby repealed.

SECTION 9. Section 15.14.650 of Chapter 15.14 of Title 15 of the San José Municipal Code is hereby repealed.

SECTION 10. Section 15.14.655 of Chapter 15.14 of Title 15 of the San José Municipal Code is hereby repealed.

SECTION 11. Section 15.14.660 of Chapter 15.14 of Title 15 of the San José Municipal Code is hereby repealed.

SECTION 12. Section 15.14.665 of Chapter 15.14 of Title 15 of the San José Municipal Code is hereby repealed.

SECTION 13. Section 15.14.670 of Chapter 15.14 of Title 15 of the San José Municipal Code is hereby repealed.

SECTION 14. Section 15.14.675 of Chapter 15.14 of Title 15 of the San José Municipal Code is amended to be numbered, entitled and read as follows:

15.14.675 Record Keeping

All Industrial Users subject to the reporting requirements of this Chapter shall retain and make available for inspection and copying, all records of information obtained pursuant

to any monitoring activities required by this Chapter, and any additional records of information obtained pursuant to monitoring activities undertaken by the Industrial User independent of such requirements. These records shall remain available for a period of at least three (3) years. This period shall be automatically extended for the duration of any enforcement action concerning the Industrial User, or where the Industrial User has been specifically notified of a longer retention period by the Director.

SECTION 15. Section 15.14.695 of Chapter 15.14 of Title 15 of the San José Municipal Code is amended to read as follows:

15.14.695 Discharge Reports

- A. The Director may require that any person connected to or discharging wastewater into the sanitary sewer system file periodic discharge reports or a zero discharge report.
- B. The periodic discharge report may be required to include, but need not be limited to, nature of process, volume, rates of flow, mass emission rate, hours of operation, number of employees, hauling records, potential for slug discharge or other information which relates to the generation of waste, including wastewater constituents and characteristics in the wastewater discharge and the ability of the discharger to meet applicable discharge limits.
- C. The zero discharge report shall certify that the Zero Discharger does not discharge Industrial Waste to the sanitary sewer system. This report may be required to include, but need not be limited to, nature of process, hours of operation, number of employees, hauling records, or other information that relates to the generation of wastes.
- D. The Director may also require such periodic discharge reports and zero discharge reports to include information concerning the chemical constituents and quantity of chemicals stored on-site, including waste hauling records or other information, which relates to the generation of wastes even though they may not normally be discharged.
- E. In addition to discharge reports, the Director may require Dischargers to submit such additional reports as may be necessary to allow the City to evaluate the Discharger's ability to comply with this Chapter, including but not limited to Best Management Practice or self-monitoring reports.
- F. It shall be unlawful for any person who has discharged wastewater to the sanitary sewer system to refuse to file any report requested by the Director.

- G. Sampling and analysis shall be performed in accordance with 40CFR 136 and amendments thereto. Where 40CFR136 does not contain sampling or analytical methods for the pollutant in question, or where the Director determines that 40CFR136 are inappropriate for the pollutant in question, sampling and analysis shall be performed by using analytical methods validated by the Director.

SECTION 16. Section 15.14.725 of Chapter 15.14 of Title 15 of the San José Municipal Code is amended to read as follows:

15.14.725 Mandatory Wastewater Discharge Permits

No Critical User or Significant Industrial User shall connect, discharge, cause, allow, or permit any discharge, into the sanitary sewer system except in accordance with a discharge permit issued by the Director.

SECTION 17. Section 15.14.730 of Chapter 15.14 of Title 15 of the San José Municipal Code is amended to read as follows:

15.14.730 Permit Duration And Amendment

- A. Discharge permits shall be issued for a specific duration, not to exceed five (5) years.
- B. Permits shall be subject to amendment by the City as limitations or requirements for discharge are modified and changed.
- C. The holder of a discharge permit shall be informed of any proposed amendment to its permit at least thirty (30) days prior to the effective date of the amendment.
- D. The Director may include a compliance schedule in an amended permit.

SECTION 18. Section 15.14.735 of Chapter 15.14 of Title 15 of the San José Municipal Code is amended to read as follows:

15.14.735 Permit Application

- A. All persons requiring a discharge permit shall file a complete application in the form prescribed by the Director and accompanied by the applicable fees as established by resolution of the City Council.

- B. For new construction, permit applications shall be filed with the Director at the time that an application for a building permit for a new building or structure is made.
- C. All persons discharging wastewaters into the sanitary sewer system for which a wastewater discharge permit has been issued must apply for a new permit prior to making a significant change in the operations affecting their discharge.

SECTION 19. Section 15.14.740 of Chapter 15.14 of Title 15 of the San José Municipal Code is amended to read as follows:

15.14.740 Delinquent Fees

- A. Permit applications are due ninety (90) days prior to commencing discharge to the sanitary system or expiration of existing discharge permit. Any person who fails to file an application for a discharge permit prior to discharge shall be assessed a penalty for delinquent filing as follows:
 - 1. Up to and including thirty (30) days delinquency, the penalty shall be fifty percent (50%) of the permit fee.
 - 2. More than thirty (30) days but less than one year delinquency, the penalty shall be one hundred percent (100%) of the permit fee.
 - 3. More than one (1) year delinquency, the penalty shall be one thousand percent (1,000%) of the permit fee.
- B. Such penalties shall be in addition to any other penalties or fines that may be levied, and in addition to any other remedies that the City may have with respect to the discharge.

SECTION 20. Section 15.14.750 of Chapter 15.14 of Title 15 of the San José Municipal Code is amended to read as follows:

15.14.750 Additional Information

- A. If the Director is not satisfied that the permit application has sufficient information to determine whether the permit should be issued, the Director may refuse to issue the permit or request that the applicant submit further information.
- B. The applicant shall have thirty (30) working days, or such longer period of time as allowed by the Director, after reviewing a request for information to complete the application.

- C. If the returned application is not resubmitted within the specified time period, then a new application for a discharge permit must be submitted along with the application fees and any delinquent fees for a new permit.

SECTION 21. Section 15.14.755 of Chapter 15.14 of Title 15 of the San José Municipal Code is amended to read as follows:

15.14.755 No Transfer Of Permit

Discharge permits are issued to a specific User for a specific operation. No User shall assign, transfer or sell a discharge permit, or use the permit for premises or for facilities or operations not covered by the permit.

SECTION 22. Section 15.14.760 of Chapter 15.14 of Title 15 of the San José Municipal Code is amended to read as follows:

15.14.760 Denial Of Permit

The Director may deny a wastewater discharge permit if any one or more of the following conditions exist:

- A. The application is not accompanied by the required fee(s).
- B. The application contains false or misleading information.
- C. The issuance of the permit would result in the discharge of industrial wastes of such quantity or strength that the public health, safety, public, or private property are endangered.
- D. The issuance of the permit would cause the Plant to violate any permit conditions, laws, or regulations of the state and/or federal government.
- E. The applicant has not provided adequate information to establish that its discharge will comply with all requirements of this Chapter and with such other terms and conditions as the Director may deem necessary to include in the applicant's permit.
- F. The applicant has not provided plans for sufficient protection from accidental discharges to the land, storm sewer system, and sanitary sewer system.

- G. If the Director refuses to issue a Permit, the application fees shall not be returned to the applicant unless the Director has ascertained that a permit is not required to discharge the wastewater for which the Permit Application is made.

SECTION 23. Section 15.14.765 of Chapter 15.14 of Title 15 of the San José Municipal Code is amended to read as follows:

15.14.765 Permit Conditions

- A. Discharge permits shall be expressly subject to all provisions of this Chapter and all other regulations, user charges, discharge limitations, and fees established by the City and all applicable local, state and federal laws and regulations.
- B. The permit may include such terms and conditions as the Director may deem necessary to implement this Chapter, or any other applicable local, state or federal laws and regulations, including but not limited to:
1. Limits on the average and maximum wastewater volume, constituents and characteristics;
 2. Requirements for installation and maintenance of flow monitoring, inspection and sampling facilities;
 3. Specifications and pretreatment requirements for monitoring programs which may include sampling locations, frequency of sampling, number, types and standards for tests and reporting schedule;
 4. Compliance schedules;
 5. Requirements for submission of technical reports or discharge reports;
 6. Requirements for maintaining and retaining plant records relating to wastewater discharge as specified by the City and affording the City access thereto;
 7. Requirements for notification to the City of any new introduction of wastewater constituents or any significant change in the volume or character of the wastewater constituents being introduced into the wastewater stream;
 8. Requirements and plans for protection against accidental discharges, including but not limited to, berming of chemicals and waste materials. The review and approval of such plans and operating procedures shall not

relieve the user from the responsibility of modifying the facility as necessary to provide the protection necessary to meet the requirements of this code or other state or federal regulations; and

9. Requirements for notification of accidental discharges.

SECTION 24. Section 15.14.785 of Chapter 15.14 of Title 15 of the San José Municipal Code is amended to read as follows:

15.14.785 Permit Appeals

- A. Any permittee or permit applicant may appeal a notice of revocation of a discharge permit, notice of denial of a permit, any term or condition of a permit, amendment of a permit or notice of termination of service to the Director.
- B. A request for hearing on a decision to revoke a permit or terminate service shall be filed, in writing, with the Director, within ten (10) days after the date the notice of revocation or termination of service is served on the permittee. A request for hearing on a decision to revoke a permit or terminate service shall, except in the case of immediate permit revocation or suspension of service for the preservation of public health or safety or for the protection of public or private property, stay the effect of the notice of revocation or termination of service, during the pendency of the appeal.
- C. A request for hearing on a decision to deny a permit, on the terms or conditions in a permit, on an amendment to a permit, shall be filed, in writing, with the Director, within thirty (30) days after the date the notice of decision is served on the applicant.
- D. Failure of a permittee or applicant to timely request a hearing shall be deemed acceptance of the Director's decision and the Director's decision shall be deemed final and effective.
- E. At the hearing before the Director, the applicant shall be given an opportunity to present witnesses and documentary and other evidence.
- F. The hearing will be conducted informally and technical rules of evidence shall not apply. Any and all evidence which the Director deems reliable, relevant, and not unduly repetitious, may be considered.
- G. The applicant may be represented at the hearing by any other person.
- H. The Director shall provide written notice of decision on the appeal to the permittee or applicant. The decision of the Director on the appeal shall be

deemed final and effective three (3) days after notice of the decision on appeal is served on the permittee or applicant.

- I. Filing of a request for hearing shall not entitle any person to discharge in violation of any of the provisions of this code.

SECTION 25. Section 15.14.790 of Chapter 15.14 of Title 15 of the San José Municipal Code is amended to be numbered, entitled, and to read as follows:

15.14.790 Publication of Users In Significant Noncompliance

The Director is authorized to publish annually, a list of the Significant Industrial Users which, at any time during the previous twelve (12) months, were in Significant Noncompliance with applicable Pretreatment Standards and Requirements. The term Significant Noncompliance is defined in the Code of Federal Regulations, 40 CFR 403.8.

PASSED FOR PUBLICATION of title this 20th day of November, 2007, by the following vote:

AYES:	CAMPOS, CHIRCO, CONSTANT, CORTESE, LICCARDO, NGUYEN, OLIVERIO, PYLE, WILLIAMS, REED
NOES:	NONE
ABSENT:	CHU
DISQUALIFIED:	NONE

CHUCK REED
Mayor

ATTEST:

LEE PRICE, MMC
City Clerk